

IN THE DISTRICT COURT OF GUAM
TERRITORY OF GUAM
MAGISTRATE CRIMINAL MINUTES

FILED
DISTRICT COURT OF GUAM

CASE NO. MG-05-00017

DATE: 05/05/2005

TIME: 2:28 P.M. 5 2005

HON. JOAQUIN V. E. MANIBUSAN, JR., Magistrate Judge, Presiding
Court Recorder and Courtroom Deputy: Virginia T. Kilgore
Hearing Electronically Recorded: 2:25:33 - 2:38:25

Law Clerk: Judith Hattori

CSO: B. Benavente

MARY L.M. MORAN
CLERK OF COURT

***** APPEARANCES *****

DEFT: JUAN SAN NICOLAS CHARGUALAF

(X) PRESENT (X) CUSTODY () BOND () P.R.

ATTY: JOHN GORMAN

(X) PRESENT () RETAINED (X) FPD () CJA APPOINTED

DEFT: JOHN A.B. ATOIGUE

(X) PRESENT (X) CUSTODY () BOND () P.R.

ATTY: MARK SMITH

(X) PRESENT () RETAINED () FPD (X) CJA APPOINTED

U.S. ATTORNEY: THOMAS SHELDON

AGENT:

U.S. PROBATION: ROBERT CARREON

U.S. MARSHAL: S. LUJAN

PROCEEDINGS: INITIAL APPEARANCE RE COMPLAINT / ARRAIGNMENT

() COMPLAINT READ TO DEFENDANT

(X) FINANCIAL AFFIDAVITS REVIEWED AND ACCEPTED: ATTORNEYS APPOINTED

FEDERAL PUBLIC DEFENDER - JUAN SAN NICOLAS CHARGUALAF

MARK SMITH - JOHN A. B. ATOIGUE

(X) DEFENDANTS SWORN AND EXAMINED: AGE: _____ HIGH SCHOOL COMPLETED: _____

(X) DEFENDANTS ARRAIGNED AND ADVISED OF THEIR RIGHTS, CHARGES AND PENALTIES

() REMOVAL/IDENTITY HEARING () CONDUCTED () WAIVED () SET FOR: _____ at _____

() WARRANT OF REMOVAL ISSUED

() GOV'T SUMMARIZES THE EVIDENCE () GOV'T SUBMITS TO THE PLEA AGREEMENT

() COURT QUESTIONS DEFENDANT REGARDING HIS PHYSICAL AND MENTAL CONDITION, AND ADVISES DEFENDANT OF THE NATURE AND POSSIBLE CONSEQUENCES OF SAID PLEA

(X) DEFENDANTS WAIVE READING OF (X) COMPLAINT () INFORMATION () INDICTMENT

(X) PLEAS ENTERED: () GUILTY (X) NOT GUILTY - TO: THE CHARGES CONTAINED IN THE INDICTMENT

() COUNT(S) _____ DISMISSED ON GOVERNMENT'S MOTION

() PLEA AGREEMENT FILED: _____ PLEA: () ACCEPTED () REJECTED

() COURT ORDERS PLEA AGREEMENT SEALED

() COURT REJECTS PLEA AGREEMENT AND REFERS IT TO: _____ FOR RECOMMENDATION.

() SENTENCING DATE: _____ at _____ () STATUS HEARING: _____ at _____

() PRESENTENCE REPORT ORDERED AND DUE: _____

() PRELIMINARY EXAMINATION SET FOR: _____

() ARRAIGNMENT SET FOR: _____ at _____

(X) TRIAL SET FOR: JUNE 28, 2005 at 9:30 A.M.

PROCEEDINGS CONTINUED TO: _____ at _____

(X) DEFENDANT TO BE RELEASED ON BOND (see release conditions on page 2)

() DEFENDANT REMANDED TO THE CUSTODY OF THE U.S. MARSHAL SERVICE FOR () PROCESSING () DETENTION

() DETENTION HEARING REQUESTED BY GOV'T DEFT IS SET FOR: _____ at _____

() DEFENDANT RELEASED ON BAIL AS PREVIOUSLY ORDERED BY THIS COURT

Counsel for defendants Chargualaf and Atoigue had no objection to the release conditions recommended by pretrial service, however, they requested the Court to allow defendants to travel near ports of entry and exit for purposes of employment. The government had no objection. The Court adopted pretrial services proposed release conditions and amended condition (w) to allow defendants to travel near ports of entry and exit solely for employment purposes.

Additional Conditions of Release

Upon finding that release by one of the above methods will not by itself reasonably assure the appearance of the defendant and the safety of other persons and the community.

IT IS FURTHER ORDERED that the release of the defendant is subject to the conditions marked below:

() (6) The defendant is placed in the custody of:

(Name of person or organization) _____

(Address) _____

(City and state) _____

(Tel. No.) _____

who agrees (a) to supervise the defendant in accordance with all the conditions of release, (b) to use every effort to assure the appearance of the defendant at all scheduled court proceedings, and (c) to notify the court immediately in the event the defendant violates any conditions of release or disappears.

Signed: _____

Custodian or Proxy

Date

Juan San Nicolas Chergualaf

() (7) The defendant shall:

(X) (a) report to the U.S. Probation Office for supervision,

telephone number _____, not later than _____

() (b) execute a bond or an agreement to forfeit upon failing to appear as required the following sum of money or designated property:

() (c) post with the court the following indicia of ownership of the above-described property, or the following amount or percentage of the above-described _____

() (d) execute a bail bond with solvent sureties in the amount of \$ _____

(X) (e) ~~maintain or actively seek employment~~

() (f) maintain or commence an education program.

(X) (g) ~~surrender any passport~~ Clerk of Court, U.S. District Court of Guam, 9th Floor, U.S. Courthouse, 630 West San Antonio Avenue, Hagatna, GU 96910

(X) (h) ~~obtain no passport~~

(X) (i) ~~abide by the following restrictions on personal association, place of abode, or travel:~~
Remain at a fixed address and not change residence without prior notice to U.S. Probation Office

() (j) avoid all contact, directly or indirectly, with any persons who are or who may become a victim or potential witness in the subject investigation or prosecution, including but not limited to: _____

() (k) undergo medical or psychiatric treatment and/or remain in an institution as follows: _____

() (l) return to custody each (week) day as of _____ o'clock after being released each (week) day as of _____ o'clock for employment, schooling, or the following limited purpose(s): _____

() (m) maintain residence at a halfway house or community corrections center, as deemed necessary by the pretrial services office or supervising officer.

(X) (n) ~~refrain from possessing a firearm, destructive device, or other dangerous weapons~~

(X) (o) ~~refrain from () any (X) excessive use of alcohol and submit to random alcohol testing at the discretion of the U.S. Probation Office~~

(X) (p) ~~refrain from use or unlawful possession of a narcotic drug or other controlled substances defined in 21 U.S.C. § 802, unless prescribed by a licensed medical practitioner~~

() (q) submit to any method of testing required by the pretrial services office or the supervising officer for determining whether the defendant is using a prohibited substance. Such methods may be used with random frequency and include urine testing, the wearing of a sweat patch, a remote alcohol testing system, and/or any form of prohibited substance screening or testing.

() (r) participate in a program of inpatient or outpatient substance abuse therapy and counseling if deemed advisable by the pretrial services office or supervising officer.

() (s) refrain from obstructing or attempting to obstruct or tamper, in any fashion, with the efficiency and accuracy of any prohibited substance testing or electronic monitoring which is (are) required as a condition(s) of release.

() (t) participate in one of the following home confinement program components and abide by all the requirements of the program which () will or () will not include electronic monitoring or other location verification system. You shall pay all or part of the cost of the program based upon your ability to pay as determined by the pretrial services office or supervising officer.

() (i) **Curfew.** You are restricted to your residence every day () from _____ to _____, or () as directed by the pretrial services office or supervising officer; or

() (ii) **Home Detention.** You are restricted to your residence at all times except for employment; education; religious services; medical, substance abuse, or mental health treatment; attorney visits; court appearances; court-ordered obligations; or other activities as pre-approved by the pretrial services office or supervising officer; or

() (iii) **Home Incarceration.** You are restricted to your residence at all times except for medical needs or treatment, religious services, and court appearances pre-approved by the pretrial services office or supervising officer.

(X) (u) ~~report as soon as possible, to the pretrial services office or supervising officer any contact with any law enforcement personnel, including, but not limited to, any arrest, questioning, or traffic stop~~

(X) (v) ~~not leave the territory of Guam without permission from the U.S. Probation Office and the Court~~

(X) (w) ~~stay away from all ports of entry and exit unless given permission by the U.S. Probation Office and the Court, except for work related purposes.~~

(X) (x) ~~submit a complete and written monthly supervision report to the U.S. Probation Office between the 1st and the 5th of each month~~

(X) (y) ~~The defendant shall not come within 500 yards of any military installation without permission of the Court~~

Additional Conditions of Release

Upon finding that release by one of the above methods will not by itself reasonably assure the appearance of the defendant and the safety of other persons and the community.

IT IS FURTHER ORDERED that the release of the defendant is subject to the conditions marked below:

() (6) The defendant is placed in the custody of:

(Name of person or organization) _____

(Address) _____

(City and state) _____ (Tel. No.) _____

who agrees (a) to supervise the defendant in accordance with all the conditions of release, (b) to use every effort to assure the appearance of the defendant at all scheduled court proceedings, and (c) to notify the court immediately in the event the defendant violates any conditions of release or disappears.

Signed: _____

Custodian or Proxy

Date

John A. B. Atteguie

() (7) The defendant shall:

(X) (a) report to the U.S. Probation Office for supervision,

telephone number _____, not later than _____.

() (b) execute a bond or an agreement to forfeit upon failing to appear as required the following sum of money or designated property: _____

() (c) post with the court the following indicia of ownership of the above-described property, or the following amount or percentage of the above-described _____

() (d) execute a bail bond with solvent sureties in the amount of \$ _____.

(X) (e) remain in contact with supervisor

() (f) maintain or commence an education program.

(X) (g) report to any supervisor Clerk of Court, U.S. District Court at Guam, 1st Floor, U.S. Courthouse, 200 West Belmont Avenue, Hagatña, GU 96910

(X) (h) obtain a passport

(X) (i) abide by the following restrictions on personal association: none of above or social

remain at a fixed address and no change residence without prior notice to U.S. Probation Office

() (j) avoid all contact, directly or indirectly, with any persons who are or who may become a victim or potential witness in the subject investigation or prosecution, including but not limited to: _____

() (k) undergo medical or psychiatric treatment and/or remain in an institution as follows: _____

() (l) return to custody each (week) day as of _____ o'clock after being released each (week) day as of _____ o'clock for employment, schooling, or the following limited purpose(s): _____

() (m) maintain residence at a halfway house or community corrections center, as deemed necessary by the pretrial services office or supervising officer.

(X) (n) refrain from possessing a firearm, destructive device, or other dangerous weapons

(X) (o) refrain from [] any [X] excessive use of alcohol and submit to random alcohol testing at the direction of the U.S. Probation Office

(X) (p) refrain from use or unlawful possession of a narcotic drug or other controlled substance defined in 21 U.S.C. § 802, unless prescribed by a licensed medical practitioner

() (q) submit to any method of testing required by the pretrial services office or the supervising officer for determining whether the defendant is using a prohibited substance. Such methods may be used with random frequency and include urine testing, the wearing of a sweat patch, a remote alcohol testing system, and/or any form of prohibited substance screening or testing.

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() (iii) **Home Incarceration.** You are restricted to your residence at all times except for medical needs or treatment, religious services, and court appearances pre-approved by the pretrial services office or supervising officer.

(X) (u) report as soon as possible to the pretrial services office or supervising officer any contact with any law enforcement personnel, including, but not limited to, any arrest, questioning, or traffic stop.

(X) (v) not leave the territory of Guam without permission from the U.S. Probation Office and the Court.

(X) (w) stay away from all ports of entry and our unless given permission by the U.S. Probation Office and the Court, except for work related purposes.

(X) (x) submit complete and written monthly supervision reports to the U.S. Probation Office between the 1st and 15th of each month.

(X) (y) The defendant shall not come within 500 yards of any military installation without permission of the Court.